

Chapter 10.61

FAILURE TO SUPERVISE A CHILD

Sections:

10.61.010 Intent/purpose.

10.61.020 Failure to supervise a child.

10.61.030 Affirmative defenses.

10.61.040 Child's conviction not required.

10.61.050 Definitions.

10.61.060 Penalty/counseling.

10.61.010 Intent/purpose.

The increasing number of criminal episodes committed by children is a negative reflection of our society's attention to family stability, and demonstrates the breakdown of meaningful parental supervision of children. Those who bring children into the world or assume a parenting role, but fail to effectively train, guide, teach and control them, should be accountable at law. Those who need assistance and training should be aided. Those who neglect their parenting duties should be encouraged to be more diligent through criminal sanctions, if necessary. This chapter should be construed to achieve these remedial objectives.

10.61.020 Failure to supervise a child.

A person commits the offense of failing to supervise a child or tending to cause the delinquency of a child, if the person is the parent, lawful guardian, or other person over the age of 18 years who is lawfully charged with the care or custody of a child, which adult person resides within the corporate limits of the city, and the person does any of the following:

A. Solicits, requests, commands, encourages or intentionally aids or acts with the child in violation of any federal, state or local law;

B. Aids, contributes to, or becomes legally responsible for the neglect, abuse or delinquency of the child;

C. Willfully abuses, neglects or abandons the child in any manner likely to cause the

child unnecessary suffering or serious injury to his health or morals;

D. Provides, encourages or permits the child to possess or consume an alcoholic beverage or a controlled substance;

E. Fails to provide appropriate and reasonable supervision of the child; or

F. Aids, contributes or becomes responsible for the neglect, abuse or delinquency of the child.

For purposes of this section, a person is responsible for the delinquency of a child or has failed to provide appropriate and reasonable supervision when:

1. The child has committed three or more delinquent acts within a two-calendar-year period, which events have been referred to the juvenile court;

2. The person fails to undertake counseling requirements ordered by a juvenile court having jurisdiction over the child;

3. The person fails to take meaningful and reasonable disciplinary or remedial action in response to prior delinquency acts of the child; or

4. The act or failure to act by the person demonstrates a willful lack of commitment to prevent future delinquent acts by the child.

10.61.030 Affirmative defenses.

In a prosecution under this chapter, it shall be an affirmative defense that the person charged:

A. Is a direct victim of that act or conduct which resulted in the child being subject to the jurisdiction of the juvenile court;

B. Reported the act or event to appropriate governmental authorities at or near the time the child committed the wrongful or delinquent act or conduct; or

C. Provided reasonable and appropriate supervision to the child, under the totality of the circumstances. In assessing the reasonableness or appropriateness of the person's supervisory actions, the court will consider:

1. The severity of the offense committed

by the child;

2. The number of prior offenses committed by the child;

3. The person's knowledge of the child's wrongful conduct or behavior;

4. The discipline, counseling or other remedial measures taken by the person, after obtaining knowledge of the wrongful behavior of the child; and

5. Any other action by the person which demonstrates a reasonable commitment and effort to prevent future delinquent or wrongful conduct, behavior or acts by the child.

10.61.040 Child's conviction not required.

It shall not be necessary to obtain an adjudication of delinquency, a conviction or otherwise establish that the child became a delinquent or committed delinquent acts, in order to obtain the conviction of a person under this chapter.

10.61.050 Definitions.

For purposes of this chapter, the following words or phrases have the following meanings:

A. "Child" is an unemancipated minor, under the age of 18 years.

B. "Delinquent act" is an act or criminal episode which, if committed by an adult, would be an infraction, a misdemeanor or a felony; however, it does not include minor traffic offenses or other misdemeanors not involving moral turpitude.

C. "Person" is a natural parent; adoptive parent; legal guardian, by virtue of a judicial order; or other person over 18 years of age who has assumed the parenting role over a child by marriage or custom and practice.

10.61.060 Penalty/counseling.

Violation of this chapter is a misdemeanor. To fulfill the primary objective and purpose of this chapter, it is the legislative intent that:

A. Upon a first conviction under this

chapter, the court sentence the defendant to complete a program of appropriate counseling; and

B. Upon subsequent convictions under this chapter, the court may sentence the defendant to perform not less than 100 hours of community service, and to complete a program of appropriate counseling.